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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,512	11/28/2000	Katsuki Minamino	450100-02864	4886

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NEW YORK, NY 10151

EXAMINER

JACKSON, JAKIEDA R

ART UNIT	PAPER NUMBER
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2655

6

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,512

Applicant(s)

MINAMINO, KATSUKI

Examiner

Jakieda R Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the Office Action mailed November 14, 2003, applicant submitted an Amendment filed on February 17, 2004, in which the applicants traversed and requested reconsideration with respect to **claims 1-11**.

Response to Arguments

2. Applicant's arguments filed February 17, 2004 have been fully considered but they are not persuasive. In response to applicant's argument (Amendment, pages 6 and 7) about two meanings of "voice recognition" the examiner notes that "recognition of the individual speaker" (Amendment page 6) is not recited in the rejected claim(s), (i.e. only speech recognition, words to be recognized (claim 4), etc. are claimed).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. Applicant has amended the claims where instead of the robot being controlled in accordance with the state, of either growth, emotion or instinct, it is now being controlled only in accordance with the *growth* state. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Claim Objections

4. Claims **1 and 3-11** are objected to because of the following informalities:
- The words "voice recognition" are misused and should be replaced with the intended –speech recognition --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-11** are rejected under 35 U.S.C. 102(b) as being anticipated by Edatsune (U.S. Patent No. 5,802,488).

Regarding **claims 1, 10 and 11**, Edatsune discloses an interactive speech recognition device, method and computer program (column 10, lines 35-42) disposed in a stuffed toy dog (figure 1A; column 4, lines 25-28) comprising:

speech recognition means for recognizing a speech (speech recognition unit, figure 1A, element 5; column 1, lines 49-55); and

control means for controlling said speech recognition means (drive control unit; figure 1B, element 7) in accordance with a growth state of the robot (column 12, lines 23-56).

Regarding **claim 2**, Edatsune discloses an interactive speech recognition device, method and computer program wherein said growth state is comprised of a plurality of nodes (levels) corresponding to increasing maturity levels for said robot (column 12, lines 23-56).

Regarding **claim 3**, Edatsune discloses an interactive speech recognition device, method and computer program wherein said control means (7) changes the recognition accuracy of said speech recognition means (5) in accordance with the growth state (changes in the level) of said robot (column 16, lines 35-42).

Regarding **claim 4**, Edatsune discloses an interactive speech recognition device, method and computer program wherein:

said speech recognition means (5) includes dictionary storage means (figure 3A, element 32) for storing a dictionary in which words to be recognized in speech recognition are described (responses; column 11, lines 8-32); and

said control means controls (7) said speech recognition (5) means such that the words described in the respective dictionaries are weighted in accordance with the growth state of said robot (weighting coefficients; column 9, lines 16-38) and speech recognition is performed using the weighted words (level of words change as toy grows; column 12, lines 23-56).

Regarding **claim 5**, Edatsune discloses everything as claimed above (claim 4), in addition discloses said speech recognition means includes dictionary storage means for storing a plurality of dictionaries (figure 2A, element 21, figure 3A, element 32 etc.) in which words to be recognized in speech recognition are described such that the words to be recognized are divided into groups (weighting coefficients, response content level etc.) and the respective groups of words are stored in different dictionaries (figure 2A, element 21, figure 3A, element 32 etc. and column 8, lines 22-29 and column 11, lines 17-20).

Regarding **claim 6**, Edatsune discloses an interactive speech recognition device, method and computer program wherein:

speech recognition means (5) includes dictionary storage means (32) for storing a dictionary in which words to be recognized in speech recognition are described (responses; column 11, lines 8-32) such that other words are linked to said words to be recognized ("Good Morning to G-o-o-d mor-ning; column 12, lines 23-32); and

said control means (7) controls said speech recognition means (5) such that another word linked to a word (column 12, lines 23-32), which is included in the dictionary (32) and which is obtained as a speech recognition result, is output as a final speech recognition word depending upon the growth state of the robot (column 12, lines 23-32).

Regarding **claim 7**, Edatsune discloses an interactive speech recognition device, method and computer program wherein words to be recognized in speech recognition (5) are described in said dictionary such that said dictionary such that words are linked

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to other acoustically ("Good Morning to G-o-o-d mor-ning; column 12, lines 23-32) or semantically similar words.

Regarding **claim 8**, Edatsune discloses everything as claimed above (claim 1), in addition Edatsune suggest that control means (7) controls the maximum number of words to be described in said dictionary, in accordance with the growth state of said robot (column 12, lines 23-32).

Regarding **claim 9**, Edatsune discloses an interactive speech recognition device, method and computer program that performs a predetermined action in accordance with the speech recognition result output by said speech recognition means (column 4, line 66 – column 5, line 5).

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. **Claims 1 and 10-11** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over **claims 1 and 10-11** of copending Application No. 09/723,813 in view of Edatsune (U.S. Patent No. 5,802,488). Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding **claims 1 and 10-11**, 09/723,813 recites a speech processing device (speech recognition apparatus), speech processing (speech recognition) method and a recording (storage) medium on which a program to be executed by a computer, built (disposed) into a robot, comprising:

speech processing means (speech recognition means) for processing (recognizing) speech; and

control means for controlling speech processing (recognition) means, based on action, emotion and instinct (growth) states of said robot (claim 1).

Although 09/723,813 controls said speech recognition (processing) means in accordance with action, emotion and instinct state and 09/723,512 controls said speech processing (recognition) means in accordance a growth state, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an interactive speech recognition device that possess a function for detecting changes in circumstance or environment and that can respond to speech issued by taking in account those different states, to enable a more sophisticated interaction which allows more advanced technology for keeping children, adults etc. interested (column 1, lines 23-46).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Gupta et al. (U.S. Patent No. 6,243,680) discloses a method and apparatus for obtaining a transcription of phrases through text and spoken utterances.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

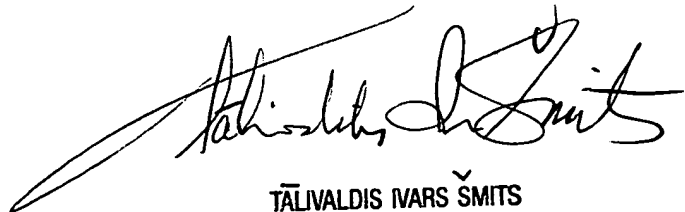
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is 703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis I. Smits can be reached on 703. 306-3011. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRJ
April 6, 2004

A handwritten signature in black ink, appearing to read 'Talivaldis Ivars Smits', with a long, sweeping horizontal line extending to the left.

TĀLIVALDIS IVARŠ ŠMITS
PRIMARY EXAMINER